



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

WILLIAM LEON BURNETT,
Petitioner,

vs.

STATE OF SOUTH CAROLINA,
Respondent.

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CIVIL ACTION NO. 9:21-04014-MGL-MHC

**ORDER ADOPTING THE REPORT AND RECOMMENDATION.
GRANTING RESPONDENT'S MOTION FOR SUMMARY JUDGMENT.
AND DISMISSING THE PETITION WITHOUT PREJUDICE
FOR LACK OF JURISDICTION**

Petitioner William Leon Burnett, (Burnett) filed this 28 U.S.C. § 2254 petition against Respondent State of South Carolina (SC). He is representing himself.

The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting SC's motion for summary judgment be granted and Burnett's petition be dismissed without prejudice for lack of jurisdiction. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may

accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on November 21, 2022, but Burnett failed to file any objections, even after having been given an extension of time to do so. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that SC’s motion for summary judgment is **GRANTED** and Burnett’s petition is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction.

To the extent Burnett moves for a certificate of appealability, such request is **DENIED**.

IT IS SO ORDERED.

Signed this 14th day of December, 2022, in Columbia, South Carolina.

s/ Mary G. Lewis

MARY G. LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Burnett is hereby notified of the right to appeal this Order within sixty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.